



March 6, 2001

Ms. Ruth H. Soucy  
Deputy General Counsel  
Comptroller of Public Accounts  
P. O. Box 13528  
Austin, Texas 78711-3528

OR2001-0846A

Dear Ms. Soucy:

This office issued Open Records Letter No. 2001-0846 on March 5, 2001. However, that decision was an incorrect draft of the decision. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on March 5, 2001.

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 144655.

The Comptroller of Public Accounts (the "comptroller") received a request for "all letter rulings requested by Ryan & Co. . . . during the period in which John Sharp served as Comptroller." You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with sections 111.006 and 151.027 of the Tax Code. We have considered the exception you claim and reviewed the submitted information.<sup>1</sup>

---

<sup>1</sup>We assume that the "representative samples" of records submitted to this office are truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 111.006(a)(2) of the Tax Code provides that information "secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer" is confidential. Although this office has determined that all supporting documents or other information provided to the comptroller by or on behalf of the taxpayer must be withheld from the public under section 111.006(a)(2) of the Tax Code, the submitted private letter rulings must be released to the public with the identity of the taxpayer redacted.

We next address the extent to which the identity of the taxpayer's representative is confidential under section 111.006(a)(2) of the Tax Code. This office has concluded that the identities of taxpayer representatives that appear in private letter rulings and administrative hearings decisions must be withheld pursuant to section 111.006(a)(2) in those situations where this office has been informed that the release of the representative's identity would necessarily reveal the identity of the taxpayer. On the other hand, absent such a representation, this office has no basis on which to conclude that such would be the case. Prior rulings of this office have concluded that the identity of the taxpayer's attorney is not confidential under section 111.006(a)(2). In this instance, you have not provided this office with any information to suggest that the release of the identity of the taxpayer's representative would directly reveal the identities of the taxpayers. We therefore conclude that, in this instance, the comptroller must release to the requestor the identity of the taxpayer's representative contained in the requested private letter rulings, as well as in the requests that led to the issuance of such rulings.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

---

requested records to the extent that those records contain substantially different types of information than that submitted to this office.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss of the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Stephen P. Agan  
Assistant Attorney General  
Open Records Division

SPA/seg

Ref: ID# 144655

Encl. Submitted documents

cc: Mr. Richard J. Langenstein  
3104 Edloe, Suite 300  
Houston, Texas 77027-6022  
(w/o enclosures)